

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY CB D.C.
05 SEP 16 AM 9:00
THOMAS H. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TN, JACKSON

UNITED STATES OF AMERICA,)

Plaintiff,)

VS.)

No. 1:03-10033-T

CURTIS JEROME MURPHY,)

Defendant.)

ORDER DENYING DEFENDANT CURTIS JEROME MURPHY'S MOTION
REQUESTING NEW COUNSEL

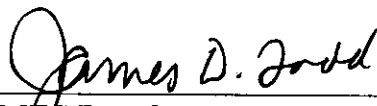
Defendant Curtis Jerome Murphy ("Defendant") requests that the court appoint new counsel to represent him in this matter. Defendant has been convicted by a jury, sentenced, and re-sentenced after a first appeal to the United States Court of Appeals for the Sixth Circuit. (See Docket No.'s 73, 97, 138). On August 5, 2005, one week after the court re-sentenced him, Defendant filed notice of his intent to appeal his new sentence. (Docket No. 139). Subsequently, Defendant brought this motion seeking new counsel.

Rule 101 of the United States Court of Appeals for the Sixth Circuit provides that "counsel in criminal cases, whether retained or appointed by the district court, [remains] responsible for the continued representation of the client on appeal until specifically relieved by [the appellate court]." See 6 Cir. R. 101. In other words, Defendant's current counsel, Larry E. Fitzgerald, is responsible for representing Defendant unless and until the Sixth


Circuit relieves him. If Mr. Fitzgerald is not “serving Defendant’s best interest,” Defendant should ask *the court of appeals* and not this court to relieve Mr. Fitzgerald from representation of Defendant.

Accordingly, Defendant Curtis Jerome Murphy’s Motion Requesting New Counsel is DENIED.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 145 in case 1:03-CR-10033 was distributed by fax, mail, or direct printing on September 16, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT